IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7202 OF 2004

1. Baban Govind Mahamuni & ors.] .. Petitioners

Versus

1. Bapu Martand Unde & 5 ors.] .. Respondents

Mr. Machhindra Deshmukh i/b Mr. Milind Deshmukh for the petitioners.

Mr. A.P. Kulkarni for the respondents No.1B - 1C & 2A to 2C.

CORAM: S.B. MHASE, J.

DATED: 27TH APRIL, 2007

P.C. :

. Heard.

2. This Writ Petition is directed against the judgment and order passed by the Additional District Judge, Baramati on 22nd June, 2004 in Misc. Application No.79 of 1999. Regular Civil Suit No.76 of 1989 was filed by the respondent in the Court of Civil Judge, Junior Division, Baramati for declaration and injunction. The said Suit was decided exparte on 1st August, 1995. Thereafter, the Appeal has been filed on 19th November, 1999, and, therefore, the delay

condonation application bearing No.79 of 1999 was filed. The same was rejected by the above referred order and, therefore, this Writ Petition has been filed.

3. The learned counsel for the petitioners submitted that though there is a delay of more than four years, yet it was not an intentional one. The petitioners were illiterate persons and, therefore, the delay occurred. It is revealed from the discussion across the bar that the notice of the suit was served on the petitioner and inspite of the service, the written statement was not filed and, therefore, the Suit was decided exparte. After the decision also, four years period elapsed and thereafter the Appeal has been filed. It is admitted in the cross-examination of petitioner No.2 herein that he came to know about the decision of the Suit after two months of the decision. This admission is fatal because within a period of two months after the decision on 1st August, 1995, the petitioners have received information of the said decision and, therefore, the petitioners should have immediately proceeded for filing an Appeal. No satisfactory or sufficient cause has been shown and, therefore, the Appellate Court has rightly rejected the application.

4. Even before this Court, nothing has been

pointed out so as to interfere in the matter and to take a lenient view. Even if a liberal approach is taken, the petitioner has miserably failed to explain the inordinate delay. Therefore, this Court refuses to entertain the Writ Petition and it is rejected accordingly.

Sd/-
[S.B. MHASE, J.]